

**Notice of Allowability**

Application No.

10/046,108

Examiner

Timothy J. Kugel

Applicant(s)

SAITO ET AL.

Art Unit

1712

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 8 October 2004.
2. ☒ The allowed claim(s) is/are 1-28.
3. ☒ The drawings filed on 14 January 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date ~~8/14/02~~ 1/14/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-28 have been allowed in under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213 in the prior Office action dated 1 September 2004.

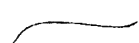
#### ***Specification***

2. The amendments to the specification have been entered. The examiner withdraws the objections to the specification noted in the prior Office action dated 1 September 2004.
3. The examiner thanks the applicant for the correcting of minor errors to the specification.

#### ***Claim Objections***

4. The amendments to the claims have been entered. The examiner withdraws the objections to claims 1 and 11 noted in the prior Office action dated 1 September 2004.

#### ***Allowable Subject Matter***

5. Claims 1-28 are allowed. The prior art fails to disclose the complex represented by formula (I) in claim 1. Claims 2-28 are dependent upon claim 1.
  6. Suzuki et al. (4,730,902) teach an organic-metal complex of similar structure, except the nitrogen atoms bound to the metal element M are each separately part of a six-member heterocyclic aromatic ring and do not form the applicant's five-member ring (Column 4 Lines 28-58).
  7. Suzuki et al. (4,913,846) teach an organic-metal complex of similar structure, except that the nitrogen atoms bound to the nickel atom form a five-member ring with double bonds between the carbon and nitrogen atoms and do not form the applicant's
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five-member ring with single bonds between the carbon and nitrogen atoms (Column 3 Line 47—Column 4 line 68).

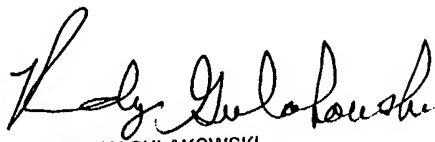
8. Oi et al. (5,788,914) teach an organic-metal complex of similar structure, except that the nitrogen atoms bound to the zinc atom are not bound to carbon atoms to form the applicant's five-member ring (Column 9 Lines 26-57).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached on 7:00 AM - 4:00 PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
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